lay on the Table, a copy each (in English and Hindi) of the following papers:—

I. (a) Annual Report and Accounts of the Apparel Export Promotion Council, New Delhi for the year ending the 31st December, 1987, together with Auditors' Report on the Accounts.

(b) Review by Government on the working of the Council.

(c) Statement giving reasons for the delay in laying the papers mentioned at (a) above.

[Placed in Library. See No LT-6810/88 for (a) and c.].

II (a) Annual Report and Accounts of the Man-made Textile Research Association, Surat, for the year 1987-88, together with the Auditors' Report on the Accounts.

(b) Review by Government on the Working Association.

[Placed in Library. See No LT-6810/for (a) and (c)]

Messages from the Lok Sabha

(I) The Maternity Benefit (Amendment) Bill, 1988.

(II) The Monopolies and Restrictive Trade Practices (Amendment) Bill, 1988.

SECRETARY-GENERAL: Madam, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:—

(I)

"In accordance with the provisions of rule 120 of the Rules of Procedure and conduct of Business in Lok Sabha, I am directed to inform you that Lok Sabha, at its sitting held on the 21st November, 1988, agreed without any amendment to the Maternity Benefit (Amendment) Bill, 1988, which was passed by Rajya Sabha at its sitting held on the 11th August, 1988"

(II)

"In accordance with the provisions of rule 98 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Monopolies and Restrictive Trade Practices (Amendment) Bill, 1988, as passed by Lok Sabha at its sitting held on the 22nd November 1988."

I lay a copy of the Monopolies and Restrictive Trade Practices (Amendment) Bill, 1988 on the Table.

CONSTITUTION (SIXTY-FIRST AMENDMENT) BILL, 1988

THE DEPUTY CHAIRMAN. The Bill to be introduced.

SHRI DIPEN GHOSH (West Bengal): We have given notice for opposing it at the introduction stage.

THE DEPUTY CHAIRMAN: But let him move.

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): Even at the introduction stage we are opposing.

THE DEPUTY CHAIRMAN: But we don't know what the Bill is about unless it is moved.

SHRI DIPEN GHOSH: At the level of introduction we are opposing it.

THE DEPUTY CHAIRMAN: There is a procedure. When the Bill is moved, then you object How can you object to a thing which is yet to be moved? You can't put the cart before the horse.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI P. SHIV SHANKER): Madam, I move for leave to introduction a Bill further to amend the Constitution of India.

The question was proposed.

THE DEPUTY CHAIRMAN: Prof. Lakshmanna has given his name.

PROF. C. LAKSHMANNA (Andhra Pradesh): Madam, Deputy Chairman, I rise to oppose the introduction of the Bill. As you are aware, this is yet another attempt on the part of the Union Government to make inroads into the autonomy of the State Government. This thing started for quite some time and they want to constantly make the States less and less workable under the Federal Constitution which we have adopted. If this Bill is introduced, if this Bill is considered and if this Bill is passed, it will create a very peculiar situation for the States. As you are aware, the entire work for promotion of sports has to be done on the ground, and the ground happens to be the States. If there is a Bill which makes sports as a Concurrent subject, then there will be a parallel organisation built by the Union Government and it may cut into the work that is being done. As it is, we have not been able to fare adequately in the world of sports. Instead of encouraging the State Governments, instead of giving sufficient funds, sufficient powers for the State Governments to encourage sports, this particular Bill seeks to include sports as a Concurrent item. If it happens, as I was mentioning earlier, the States will be reduced to nothingness. Therefore, it is not proper for the Union Government to constantly think in terms of taking away powers. In this connection, I would like to mention that Sarkaria Commission.....

THE DEPUTY CHAIRMAN: When the Bill is introduced, when the discussion is going on, you can bring in any Commissions' reports but your objection is that sports should not become a Concurrent Subject. That is all. Reasons you may not give. Let Mr. Satya Prakash Malaviya also say something.

PROF. C. LAKSHMANNA: Just a sentence.

THE DEPUTY CHAIRMAN: One sentence? All right.

PROF. C. LAKSHMANNA: I was mentioning that even the Sarkaria Commission had gone into the question of the efforts on the part of the Union Government to continuously make inroads into the autonomy of the States. They had gone into this question. The report of the Sarkaria Commission is stated to be discussed in the House and decisions have to be taken thereon. Instead of waiting for the report of the Sarkaria Commission to be discussed, Government wants to rush through this Bill to cut into the autonomy of the States. Therefore, I would strongly oppose the introduction of this Bill.

(Interruptions)

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh): Madam, Deputy Chairman, I would like to draw your attention to the proviso to rule 67 which says.

> "Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the Council, the Chairman may permit a full discussion thereon."

My submission is that while framing the Constitution, sports was put in the State List with judicious restraint. This tantamounts to taking away the rights of the States. I would say that this amounts to changings the basic structure of the Constitution which is beyond the purview of this Council. Therefore, my submission is that you may be pleased to permit a full discussion on this.

THE DEPUTY CHAIRMAN: We cannot allow a full discussion . When the Bill is taken up for consideration, when the discussion takes place place on it you can make whatever objections you like.

SHRI SATYA PRAKASH MALAVIYA: That is not the point. The proviso to rule 67 clearly says that when the Bill initiates legislation outside the legislative competence of the Council, the Chairman may permit a full discussion.

THE DEPUTY CHAIRMAN: But you also see rule 69.

SHRI SATYA PRAKASH MALAVIYA: Therefore, my submission is that you may be pleased to permit a full discussion.

(Interruptions)

SHRI M S. GURUPADASWAMY (Karnataka): Madam, may I make a submission? In view of the fact that we are going to discuss the Sarkaria Commission report—Government themselevs are bringing forward a Motion on this in this Session; this is the information we have got—this matter should not be taken up now Secondly, this adversely abridges the rights of the States. This goes against the powers of the State Gove.nments. Therefore, this is a very very serious matter and this Bill should not be introduced at the present moment unless the Government consults the Opposition leaders.

THE DEPUTY CHAIRMAN: Now Mr. Dipen Ghosh and then Mr. Chitta Basu.

SHRI N. E. BALARAM (Kerala): Madam, I have also given my name *(Interruptions)*.

THE DEPUTY CHAIRMAN: Only one minute, Mr. Ghosh. We have a lot of Special Mentions. Otherwise I am going to cut your time in the Special Mention.

SHRI DIPEN GHOSH: Madam, Deputy Chairman, this Bill is aimed at taking sports from the State List to the Concurrent List by amending the Constitution. We have seen the performance of the Central Government in the sports field in the last Seoul Olympiad. Even today, there is a statement by the Chief of the Indian Olympic Association asking the Government not to interfere in sports.

The DEPUTY CHAIRMAN: We will be discussing it in the afternoon.

SHRI DIPEN GHOSH: This amounts to...

SHRI A. G. KULKARNI (Maharashtra): Madam, are we going into the merits of this Constitution (Amendment) Bill?

SHRI DIPEN GHOSH: I am not going into the merits. But I am entitled...

SHRI A. G. KULKARNI: When the Bill is taken up for discussion, you can give your views. We have also our views.

SHRI DIPEN GHOSH: I am not going into the merits But I am entitled to oppose the Bill at the introduction stage itself. This amounts to corrosion of the powers of the States and their autonomy. Particularly, when the report of the Sarkaria Commission is going to be discussed in the House. no Bill should be brought forward for even consideration before we discuss the report and give our views thereupon.

Thirdly. Madam. what is the hurry? Many State Governments have opposed this. When the Central Government wanted to elicit the views of the State Governments. many State Governments opposed it; the proposal to take sports from the State List to the Concurrent List. Therefore, I oppose the Bill at the introduction stage itself. I would appeal to Shri Shiv Shanker, hon. Minister of Human Resource Development to wait till a fullfledged discussion takes place on the Sarkaria Commission report which had, *inter alia* dealt with this subject. You please withdraw this Bill and do not press it for introduction at this stage.

THE DEPUTY CHAIRMAN: Mr. Chitta Basu. Please be very brief because we will not have time for other business.

SHRI CHITTA BASU (West Bengal): Madam, I am opposed to the introduction of this Bill. The reasons for my objection are: firstly, it encroaches upon the States' rights enshrined in the existing Constitution of our country. Secondly, it erodes the existing principle of federalism although this principle of federalism is highly limited in the present Constitution of our country, but whatever still remains is being eroded. Thirdly, federalism is the basic and core concept of our Constitution. By introducing this Bill, that very core concept is being challenged, as has been mentioned by my earlier comrades.

THE DEPUTY CHAIRMAN: All right. Let us not turn it into a debate.

SHRI CHITTA BASU: Madam, you should also understand that it further disturbs the existing Centre-State relations. It adds to the stress and strain of the Centre-State relations. There are about nine States which are governed by other than Congress(I) parties and therefore, any change in the devolution of powers is likely to create a further stress and strain on the Centre-State relations.

Finally, Madam, since the Sarkaria Commission has gone into the problem of Centre-State relations in depth and they have submitted a number of recommendations and this Bill is directly contrary to the spirit of the recommendations of the Sarkaria Commission, therefore, it will be height of folly to introduce this kind of a Bill at this particular point of time. I, therefore oppose the introduction of the Bill.

THE DEPUTY CHAIRMAN: Any other Member? Are you opposing it? I know everybody is very eager to hear his own voice, but the main thing is, are you going to make any point other than Sarkaria Commission Report? If you have any point other than that of Sarkaria Commission Report, then you speak. Mr. Balaram, I hope it is not Sarkaria Commission Report? What is your reason for opposing it?

SHRI N. E. BALARAM: I am saying it. First, I have the right to oppose it at this stage. Madam, unfortunately, this is another step to undermine the autonomy of the States. When all of us are very much concerned about the unity and integrity of our country and when we talk about a strong Centre and strong States, it means we are envisaging a new federal set-up. I do not think introducing this sort of a Bill will help the country at this stage, because there are apprehensions all-round about unity and integrity of the country. This is not just taking one small item and putting it in the Concurrent List. It is not so simple. Some principles are involved. When we are debating about certain principles inside the country—all parties, all sections, in every State we are discussing about understanding the concept of federalism, I do not know what is the hurry in introducing such a Bill?

THE DEPUTY CHAIRMAN: All right, you have made your point.

SHRI N. E. BALARAM: It will create more and more confusion, more and more apprehension. So I request that this should not be introduced at this stage. And if you are introducing it, I am totally opposed to it.

THE DEPUTY CHAIRMAN: I know you also want to oppose it, Mr. Upendra. Mr. Matto, if you want to oppose it, then you speak. Anybody who wants to support it may not speak, because the Minister has already moved it. Mr. Verma Ji आप ने नाम दिया है बस लास्ट। We know your viewpoint. It is one and the same position. We know that the Opposition is very united. Mr. Verma, you make your point and then the Minister will reply.

SHRI PARVATHANENI UPENDRA: You cannot shut it out like that. It is a valid objection.

THE DEPUTY CHAIRMAN: It is a very unusual practice in this House. It is only one Member from the Opposition side. But I have allowed so many.

SHRI PARVATHANENI UPENDRA: No, no.

THE DEPUTY CHAIRMAN: It is one Member. It is written there. Please read the book...Let us not argue about it. We are discussing an important matter. You all complain that sports is not being given enough importance. Vermaji, you oppose it?

श्री वीरेन्द्र वर्मा (उत्तर प्रदेश) : माननीय उपसभापति महोदया, इस माननीय सदन के जो माननीय सदस्य है, इनसे बहुत बुद्धिमान, बहुत तजुर्बेकार लोगों ने इस संविधान को बनाया था और देश की एकता और अखंडता को कायम रखने के लिए केन्द्र और राज्यों के अलग अलग अधिकार बताए थे । माननीय मंत्री जी जिस बिल को पेश करना चाहते है, उसमें राज्यों की स्वायत्तता पर कुठाराघात होगा और यह देश की एकता और अखंडता के लिए खतरा बन सकता है । इसलिए मैं आपके माध्यम से माननीय नेता सदन, मानव संसाधन मंत्री जी से निवेदन करना चाहूंगा कि वह देश की एकता और अखंडता तथा राज्यों की स्वायत्त अधिकारों को देखते हुए इस बिल को वापस लें । मैं इसके इंट्रोडक्शन का विरोध करता हूं ।

THE DEPUTY CHAIRMAN: Mr. Shiv Shanker.

SHRI PARVATHANENI UPENDRA: Madam ... (*Interruptions*)... What is this?

SHRIMATI BIJOYA CHAKRAVARTY (Assam): Madam... (*Interruptions*)...

THE DEPUTY CHAIRMAN: Enough, enough... (*Interruptions*)... Enough is enough.

SHRIMATI BIJOYA CHAKRAVARTY: I am the only lady Member.

THE DEPUTY CHAIRMAN: Somebody is the only lady, somebody is very young, somebody is very old, somebody is very senior. No, that is no criterion.

SHRIMATI BIJOYA CHAKRAVARTY: What I have to say is something different... (*Interruptions*)...

THE DEPUTY CHAIRAN: Please sit down.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): The Minister is on his legs... (*Interruptions*)...

SHRI P. SHIV SHANKER: Madam, I would not like to go into the various arguments that have been addressed. What has been said by the honourable Members, by and large, is on the merits of the issue itself which, perhaps, at the time when the Bill will be debated could be gone into. The question is. is it outside the power for the purpose of introduction?—as two of the honourable members tried to put it. They tried to bring in the proviso of legislative incompetence based on the concept of basic structure of the Constitution.

AN HONOURABLE MEMBER: Yes, that is the question.

SHRI P. SHIV SHANKER: I, for one, believe that this Bill does not affect the basic structure of the Constitution in any form. The basic structure, *per se* is a matter which is in fluidity. While not going into those details, I would like to submit that there is no impediment for the legislative competence of this Constitu-

[Shri P. Shiv Shanker]

tional Amendment Bill. This is not an ordinary Bill where a legislation is being taken up and therefore you could say whether it falls within three of the Lists of the Seventh Schedule so that you could challenge the competence for the purpose of Parliament.

One aspect which has been referred to is the autonomy part of it. I would submit that autonomy is mixed with the homogeneity of the powers in the Constitution. I will not go into that at this stage but, the time when the matter would be debated, I may have a wider opportunity to make my submissions before the House.

Another aspect which has been brought to the notice of the House is that since the Sarkaria Commission Report is being debated, therefore, this could be debated afterwards. That is a matter where the strategy part of it comes. Whether it should be debated now, whether it should be debated along with the Sarkaria Commission Report or afterwards, is a matter which we can sort out; there is no difficulty about it.

I am, for the present, on the question of the introduction of the Bill; I am not on the merits of it. Therefore, I would not like to go into the details of these merits. We will go into them at the time of the debate. I would submit that there are no grounds on which the introduction could be stopped at this stage. Therefore, I am not prepared to accept the objections that have been raised by the other side.

THE DEPUTY CHAIRMAN: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The House divided.

THE DEPUTY CHAIRMAN:

Ayes—51
Noes—35

AYES—51

Ahluwalia, Shri S. S.
Amla, Shri Tirath Ram
Bagrodia, Shri Santosh
Bansal, Shri Pawan Kumar
Basumatari, Shri Dharanidhar
Bekal, Utsahi, Shri
Bhandare, Shri Murlidhar Chandrakant
Bhim Raj, Shri
Desai, Shri Jagesh
Deshmukh Shri Shankarrao Narayanrao
Dubey, Shri Bindeshwari
Ganeshwar Kusum, Shri
Hanumanthappa, Shri H.
Hari Singh, Shri
Islam, Shri Baharul
Jacob, Shri M. M.
Jamir, Shri S. C.
Jogi, Shri Ajit P. K.
Kalita, Shri Bhubaneswar
Kalmadi, Shri Suresh
Kesri, Shri Sitaram
Kidwai, Dr. Mohd. Hashim
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kulkarni, Shri A. G.
Laxmi Narain, Shri
Majhi, Shri Prithibi
Malaviya, Shri Radhakrishan
Masodkar, Shri Bhaskar Annaji
Matto, Shri Ghulam Rasool
Mirza Irshadbaig, Shri
Mishra, Shri Sheo Kumar
Mohapatra, Shri Basudeb
Naik, Shri G. Swamy
Natarajan, Shrimati Jayanthi
Pandey, Dr. Ratnakar
Panwar, Shri B. L.
Patel, Shri Vithalbhai M.

Puglia, Shri Naresh C.
Sahu, Shri Baikunthnath
Sahu, Shri Rajni Ranjan
Satya Bahin, Shrimati
Shiv Shanker, Shri P.
Siddiqi, Shri Shamim Ahmed
Singh, Shri R. K. Dorendra
Sukul, Shri P. N.
Thakur, Jagatpal Singh
Thakur, Shri Rameshwar
Tirja. Kumari Sushila
Verma, Shri Kapil
Verma, Shrimati Veena

NOES—35

Amin, Shri Mohammed
Balaram, Shri N. E.
Balu, Shri T. R.
Basu, Shri Chitta
Basu Ray, Shri Sunil
Chakravarty, Shrimati Bijoya
Chaudhuri, Shri Tridib
Chautala, Shri Om Prakash
Chowdhury, Shrimati Renuka
Ghosh, Shri Dipen
Goswami, Shri Ramnarayan
Gowda, Shri K G. Thimme
Gurupadaswamy, Shri M. S.
Jethmalani, Shri Ram
Kaldate, Dr. Bapu
Kunjachen, Shri P. K.
Lakshmanna, Prof. C.
Lather, Shri Mohinder Singh
Mahishi, Dr. (Shrimati) Sarojini
Malaviya, Shri Satya Prakash
Morarka, Shri Kamal
Mukherjee, Shri Samar
Poddar, Dr. R. K
Quasem, Shri Mostafa Bin
Rahman, Shri Mohd. Khaleelur
Rao, Shri Moturu Hanumantha
Reddy, Shri B. Satyanarayan
Reddy, Dr. G. Vijaya Mohan
Sreedharan, Shri Arangil
Swamy, Shri Subramanian
Upendra, Shri Parvathaneni
Verma, Shri Ashok Nath
Verma, Shri Virendra
Yadav, Shri Ish Dutt
Yadav, Shri Ram Naresh

The motion was adopted.

PROF. C. LAKSHMANNA: Madam two more names are there. They have not been included.

THE DEPUTY CHAIRMAN: Why have they not given their names.

PROF. C. LAKSHMANNA: Just now they gave.

SHRI A. G. KULKARNI: How can it be taken in now? It cannot be done now.

THE DEPUTY CHAIRMAN: No cross-talks, please. Professor, even if three have not come, I think my calculation is not bad and the result will be subject to correction, they would not be 51. Whatever the correct number, they will be included. Still Ayes have it and I will correct the figure.

SHRI P. SHIV SHANKER: Madam, I introduce the Bill.

SHRI P. K. KUNJACHEN (Kerala): Madam, I have given a notice on privilege motion.

THE DEPUTY CHAIRMAN: It is under Chairman's consideration.

Special Mentions

Manhandling of a Rajya Sabha Member by Tihar Jail Official

SHRI M. A BABY (Kerala): Thank you very much for permitting me to raise through a special mention my personal experience.